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Attorneys for All Defendants

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KEVIN RISTO, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

SCREEN ACTORS GUILD-
AMERICAN FEDERATION OF
TELEVISION AND RADIO
ARTISTS, a Delaware corporation;
AMERICAN FEDERATION OF
MUSICIANS OF THE UNITED
STATES AND CANADA, a California
nonprofit corporation; RAYMOND M.
HAIR, JR., an individual, as Trustee of
the AFM and SAG-AFTRA Intellectual
Property Rights Distribution Fund;
TINO GAGLIARDI, an individual, as
Trustee of the AFM and SAG-AFTRA
Intellectual Property Rights
Distribution Fund; DUNCAN
CRABTREE-IRELAND, an individual,
as Trustee of the AFM and SAG-
AFTRA Intellectual Property Rights
Distribution Fund; STEFANIE TAUB,

Case No. 2:18-cv-07241-CAS-PLA

Class Action

**DECLARATION OF ANDREW G.
SULLIVAN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION**

Date: September 14, 2020

Time: 10:00 a.m.

Dept.: 8D

Judge: Christina A. Snyder

1 an individual, as Trustee of the AFM
2 and SAG-AFTRA Intellectual Property
3 Rights Distribution Fund; JON JOYCE,
4 an individual, as Trustee of the AFM
5 and SAG-AFTRA Intellectual Property
6 Rights Distribution Fund; BRUCE
7 BOUTON, an individual, as Trustee
8 of the AFM and SAG-AFTRA
9 Intellectual Property Rights
10 Distribution Fund; and DOE
11 RESPONDING PARTY 1-10,

Responding Party.

DECLARATION OF ANDREW G. SULLIVAN

I, Andrew G. Sullivan, declare as follows:

1. I am admitted to practice law in California and am an attorney at the law firm of Jenner & Block, LLP (“Jenner & Block”). I serve as counsel of record for Defendants Screen Actors Guild-American Federation of Television and Radio Artists (“SAG-AFTRA”), American Federation of Musicians of the United States and Canada (“AFM”), Raymond M. Hair, Jr., Tino Gagliardi, Duncan Crabtree-Ireland, Stefanie Taub, Jon Joyce, and Bruce Bouton (collectively, “Defendants”). I submit this declaration in support of Defendants’ Opposition to Plaintiff’s Motion for Class Certification. If called to testify, I could and would testify as to the following based on personal knowledge.

2. On June 22, 2020 and in the days that followed, I participated in telephonic meet-and-confer discussions with one or both of Plaintiff’s counsel Mariana McConnell and Daniel B. Lifschitz in connection with Plaintiff’s anticipated Motion for Class Certification in compliance with L.R. 37-1. During these calls, I discussed a narrow set of issues with Plaintiff’s counsel relating primarily to the definition of the proposed plaintiff class, which the parties ultimately were not able to resolve.

3. During these calls, I discussed with Plaintiff’s counsel that the putative class alleged by Plaintiff encompasses performers who have suffered no injury in fact. Specifically, we discussed that Plaintiff’s proposed class includes the performers represented on the Fund’s Unclaimed Royalty list, who by definition have not received any royalty distributions from the Fund and thus have not been subject to the Service Fee at issue in this litigation. I explained Defendants’ position that such performers who have not been subject to any Service Fee deductions have suffered no injury in fact, and therefore should not be encompassed within the certified class.

1 4. We discussed the fact that the Fund has already engaged in extensive
2 efforts to locate the performers represented on the Fund's Unclaimed Royalty list,
3 including outreach efforts such as advertising campaigns, but that the Fund has so
4 far been unable to locate these performers. We discussed Defendants' doubts about
5 the feasibility of including this category of performers in Plaintiff's class definition,
6 given that they have already been subject to the Fund's outreach efforts and have not
7 been responsive, which calls into question whether this subset of performers could
8 be provided with effective class notice or otherwise be located for the purposes of
9 providing class-wide relief.

10 5. I also discussed with Plaintiff's counsel that Plaintiff's proposed class
11 is unduly broad because it encompasses performers who had the Service Fee
12 deducted from their royalty distribution outside the statute of limitations period. We
13 discussed Defendants' position that the class definition should not encompass
14 performers whose claims are time-barred.

15 6. We also discussed Defendants' position that Rule 23(b)(1) of the
16 Federal Rules of Civil Procedure is the appropriate vehicle for class-wide resolution.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct.

19 Executed this 3rd day of August, 2020.

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22 Andrew G. Sullivan
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